

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT HUNTINGTON

	x	
	:	
HERSHEL WOODROW WILLIAMS,	:	Civil Action
	:	
Plaintiff,	:	No. 3:19-cv-00423
	:	
v.	:	
	:	Date: April 6, 2020
BRYAN MARK RIGG, et al.,	:	
	:	
Defendant.	:	
	x	

TRANSCRIPT OF TRO MOTION HEARING HELD  
BEFORE THE HONORABLE THOMAS E. JOHNSTON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
IN CHARLESTON, WEST VIRGINIA  
**TELEPHONICALLY**

APPEARANCES:

For the Plaintiff:	JOHN H. MAHANEY, ESQ.
(By telephone)	BRITTANY GIVEN, ESQ.
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For the Defendant:	THOMAS M. HANCOCK, ESQ.
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Court Reporter: Ayme Cochran, RMR, CRR

Proceedings recorded by mechanical stenography;  
transcript produced by computer.

**EXHIBIT A**

1     **Q.**     Okay.  In the course of your time on -- during this  
2     trip with Mr. Rigg, did you communicate these requirements  
3     to Mr. Rigg?

4     **A.**     Yeah.  We spoke -- we spoke about these things in  
5     particular while we were -- while we were there on Guam.  We  
6     did -- we did dive into these things, as well as, you know,  
7     the fact that if there were any royalties, that that would  
8     -- you know, it would be a 50/50 split and that we were --  
9     we were both in agreement that in order to move forward once  
10    we got back to the States that those, you know, those were  
11    stipulations we both understood.

12    **Q.**     And I want to make sure that we're clear.  In terms of  
13    your discussions with Mr. Rigg, did he indicate to you that  
14    if information was provided to him or that you moved forward  
15    with the book that he was in agreement to those terms?

16    **A.**     Yes.  Yes.

17    **Q.**     And that would include that the book be factual and  
18    that Mr. Williams would have the right to consent to the  
19    final content of the book?

20    **A.**     That's correct.

21    **Q.**     So, that's 2015.  Let's move forward into 2016.  What,  
22    if anything, happened in terms of moving this along during  
23    the latter part of 2015 as we get into 2016?

24    **A.**     You know, I think that's when the -- the initial  
25    manuscripts started flowing between he and Woody.  He was

1       **Q.**    Do you have something that I sent you as Exhibit number  
2       2?

3       **A.**    I do.

4       **Q.**    Okay.

5               MR. MAHANEY:  And, for the record, I am referring  
6       now to Plaintiff's Exhibit number 2, which is an e-mail that  
7       I sent earlier, a series of e-mails.

8               BY MR. MAHANEY:

9       **Q.**    So, let me let you take a look at this.  Do you  
10       recognize this series of e-mails?

11       **A.**    I do.

12       **Q.**    Okay.  These are dated in August of 2016.  And would  
13       these have been e-mails that you recognized that you would  
14       have received and sent to Mr. Rigg?

15       **A.**    Correct.

16       **Q.**    Okay.  Now, if we start at the oldest and move forward,  
17       do you see where I'm -- on the last page or next to the last  
18       page where it says, "August 18, 2016 at 11:18 a.m."?

19       **A.**    I do.

20       **Q.**    Okay.  In looking at this, does this refresh your  
21       memory that this would have been one of the first drafts  
22       that Mr. Rigg would be sending to you and to your  
23       grandfather for review?

24       **A.**    Yes.  As a matter of fact, he said in this very first  
25       line, "very, very rough draft".

1 Q. Let's turn to the last page here. It says -- this is  
2 the first sentence. Do you see where it says, "Woody, as  
3 you already have proved countless times, let me know what I  
4 need to change to make this book kosher, facts and  
5 language"; do you see that?

6 A. I do.

7 Q. And was what Mr. Rigg was saying here consistent with  
8 what your understanding was in terms of the drafts of the  
9 book would be submitted to Mr. Williams for his review both  
10 in terms of the facts and the language of the book?

11 A. Yes. It looks like that's what he's made clear here.

12 Q. Okay. And that's consistent with the understanding in  
13 your conversation that you had had with Mr. Rigg?

14 A. Absolutely.

15 MR. MAHANEY: I'd move the admission of  
16 Plaintiff's Exhibit 2 at this time, Your Honor.

17 MR. HANCOCK: No objection to Plaintiff's  
18 Exhibit 2.

19 THE COURT: All right. Exhibit 2 may be admitted.

20 **PLAINTIFF EXHIBIT 2 ADMITTED**

21 BY MR. MAHANEY:

22 Q. Let's move on, if we can, sir. Do you have Exhibit 4,  
23 Plaintiff's Exhibit 4?

24 A. I do.

25 Q. Okay. And do you recognize Plaintiff's Exhibit 4 as an

1 e-mail and attachment that you received from Mr. Rigg?

2 **A.** It appears so, from Rigg, May 27 of '17.

3 **Q.** Yes.

4 **A.** Yes.

5 **Q.** All right. Now, I also want you to look at -- for  
6 reference purposes, I also want you to look at Plaintiff's  
7 Exhibit number 8. And I'll have you pull that out, as well.

8 **A.** Okay.

9 **Q.** And please let us know when you have that.

10 **A.** Got it.

11 **Q.** Okay. Now, Plaintiff's Exhibit number 8 looks to be an  
12 e-mail that you sent to Mr. Casey [sic] in December of 2017,  
13 correct?

14 **A.** I sent it to Mr. Rigg December 18th of 2017, correct.

15 **Q.** Yes. And so, if we compare the attachments, which I've  
16 asked you to do before the hearing here today, can you tell  
17 us how these two compare, which one pre-dated the other?

18 **A.** I don't recall that, actually.

19 **Q.** Okay. Let me -- let me let you look on Exhibit number  
20 8, which you see where it sayings, The book agreement,  
21 April 26, 2017". Do you see that?

22 **A.** Yeah. I'm looking -- I'm looking at the agreement.  
23 Page -- Page 3 of Exhibit 8.

24 **Q.** Okay. And if you look at Page 2 in the exhibit line,  
25 it says, "Book agreement, version 3, April -- or V-3,

1 act on behalf of Mr. Williams?

2 **A.** No.

3 **Q.** In terms of being able to agree on anything?

4 **A.** No. No. That was never my intention. It was never  
5 Woody's intention. I was simply go-between and a grandson  
6 trying to -- trying to help make this happen.

7 **Q.** You would take this back to Mr. Williams at some point  
8 for his approval?

9 **A.** Correct.

10 **Q.** Okay.

11 MR. MAHANEY: Move the admission of Plaintiff's 8  
12 at this time.

13 MR. HANCOCK: No objection.

14 THE COURT: Plaintiff's 8 may be admitted.

15 **PLAINTIFF EXHIBIT 8 ADMITTED**

16 BY MR. MAHANEY:

17 **Q.** Sir, if you could, let's take a look at Plaintiff's 9.

18 **A.** Okay.

19 **Q.** Please let me know when you have it.

20 **A.** 1.1 final revised?

21 **Q.** Yes?

22 **A.** Yes.

23 **Q.** Correct. Begins "1.1 final revised".

24 **A.** December 19th, yeah.

25 **Q.** Okay. And do you have four pages to that -- five pages

1 MR. MAHANEY: Your Honor, I would move the  
2 admission of Plaintiff's 6 at this time.

3 MR. HANCOCK: No objection to Plaintiff's 6.

4 THE COURT: Plaintiff's 6 may be admitted.

5 **PLAINTIFF EXHIBIT 6 ADMITTED**

6 BY MR. MAHANEY:

7 Q. Just a couple of final questions, Mr. Casey. Was there  
8 ever any agreement that you were aware of between yourself  
9 and Mr. Rigg or Mr. Williams and Mr. Rigg that -- where the  
10 parties agreed to change what is identified as Paragraph 6  
11 in Exhibit number 6?

12 A. No.

13 Q. To your knowledge, did Mr. Rigg propose a change,  
14 change proposed language that would take away Mr. Williams'  
15 right to mutually agree or to consent to the content of the  
16 book?

17 A. Yeah, he did. He -- you know, things began to change,  
18 you know, and there were -- evidently, he had spoken to a  
19 couple of other authors that I guess persuaded him that the  
20 final -- final consent and several other things related to  
21 the book were -- were not necessary on his part. So, some  
22 of those -- some of the things that we -- we had agreed to,  
23 he seemed to be -- be backing off of and had some concerns  
24 about that.

25 Q. To your knowledge, as we get into 2019 and into 2020,

1 did Mr. Rigg submit any versions of the manuscript or the  
2 book that became the *Flamethrower* book to either you or Mr.  
3 Williams, to your knowledge, for review or consent?

4 **A.** No.

5 **Q.** Do you have any -- do you know whether or not either  
6 you or Mr. Williams provided any consent to Mr. Rigg or  
7 anyone on his behalf that would allow him to publish the  
8 current version of the *Flamethrower* book that was published?

9 **A.** Absolutely not.

10 MR. MAHANEY: Those are all the questions that I  
11 have of Mr. Casey at this time.

12 THE COURT: Cross examination.

13 MR. HANCOCK: Excuse me.

14 **CROSS EXAMINATION**

15 **BY MR. HANCOCK:**

16 **Q.** Mr. Casey, this is Tom Hancock. Can you hear me okay?

17 **A.** Yes, sir.

18 **Q.** Hey, because we're on the telephone today, if I break  
19 up when I'm asking you a question, or if you just don't  
20 understand what I'm asking, if I ask a bad one, which may  
21 happen from time to time, I want you to please let me know  
22 and I'll try to repeat my question. That way, you can get a  
23 question that you can answer, okay?

24 **A.** Absolutely. Yes, sir.

25 **Q.** I want to go back and follow up on a few things that



1 THE WITNESS: All right.

2 **HERSHEL WOODROW "WOODY" WILLIAMS, PLAINTIFF, SWORN**

3 **DIRECT EXAMINATION**

4 **BY MR. MAHANEY:**

5 **Q.** Sir, and state your name for the record, please.

6 **A.** Hershel "Woody" Williams.

7 **Q.** And what is your current address?

8 **A.** 3450 Wire Branch Road, Ona, West Virginia.

9 **Q.** And your age, sir?

10 **A.** 96.

11 **Q.** Okay. Do you know Bryan Mark Rigg?

12 **A.** I do.

13 **Q.** We heard Mr. Casey's testimony a few minutes ago. We  
14 won't go back through all of that, but would it be the case  
15 that you first met him in or around 2015 on a trip to Guam  
16 and Iwo Jima?

17 **A.** That is true.

18 **Q.** Okay. Now, at some point in or around that time, do  
19 you recall having conversations with Mr. Rigg about the  
20 possibility of him writing a book about you?

21 **A.** I think the conversation was more between Brent --

22 **Q.** Okay.

23 **A.** -- and I don't remember having any particular  
24 discussion with him on that trip.

25 **Q.** Okay. Do you recall, when you got back, do you recall

1 having discussions with him about conditions under which --  
2 or that would have to be satisfied for him to be able to  
3 write a book about you and for you to participate with that?

4 **A.** Yes, absolutely.

5 **Q.** Okay. And what were those conditions?

6 **A.** Well, the first one, of course, was the stipulation  
7 that it had to be factual.

8 **Q.** Okay.

9 **A.** It had to be the truth. It wasn't -- there was so much  
10 that had been printed in other articles that were not  
11 totally factual, so I wanted that, and that I would have  
12 final say-so or final review of the book before it was  
13 published.

14 **Q.** Okay.

15 **A.** So I could make sure that it was factual.

16 **Q.** Did you -- and that you agreed with the content and the  
17 language?

18 **A.** That's right.

19 **Q.** Did you communicate that to Mr. Rigg?

20 **A.** I did.

21 **Q.** And then what was his response? Did he agree to those  
22 terms if you moved forward?

23 **A.** Well, he didn't disagree, so I take it -- I took it  
24 that he did agree.

25 **Q.** Okay. Well, when you say "he didn't disagree", I mean,

1 "Line 3, Page so-and-so" and, "This needs to be changed, or  
2 eliminated", or something, whatever.

3 **Q.** Okay.

4 **A.** So, we did a lot of that.

5 **Q.** And that continued on for a period of time?

6 **A.** Yes, it did.

7 **Q.** Let's talk about -- do you recall there being a meeting  
8 up here in West Virginia at the Holiday Inn in July of 2017?

9 **A.** Very well, yes.

10 **Q.** Tell the Court what you remember about that meeting,  
11 who was there and what you all talked about.

12 **A.** Okay. Well, I felt that we needed to come to some kind  
13 of an agreement where we both signed something. But I -- I  
14 was in business for a number of years. That was one of the  
15 things that I stipulated and, fortunately, of course, in my  
16 business, when we came to an agreement, we would sign  
17 something to say we were agreeing. And so, I certainly  
18 agreed to that and when he came here, why, I had all my  
19 family, all except one grandson who lived in Kentucky. They  
20 were all there. And he was there on the phone, my grandson.

21 **Q.** When you say your family, who all was there? Who does  
22 that consist of?

23 **A.** Well, I had grandsons, three grandsons, Bryan Casey,  
24 Todd Graham, Brent Casey were there. My daughter Travie and  
25 my daughter Tracie were there. And Bryan.

1 would have come up again as something you would have talked  
2 about there in that meeting of December of -- or February of  
3 2017?

4 **A.** Yes.

5 **Q.** Okay. The next paragraph down, it says that, "The  
6 final decision on the book content will be the  
7 responsibility of Hershel Williams." Do you see that?

8 **A.** Yes, I do.

9 **Q.** In other words, you got to make the decision as to what  
10 the final content of the book was?

11 **A.** Yes.

12 **Q.** If it's listed here on Exhibit 3, does that mean that  
13 you all talked about it that day?

14 **A.** No doubt. Yes.

15 **Q.** Okay. And just so that we're clear, did Mr. Rigg  
16 indicate that he agreed with that, that he was okay with you  
17 having consent?

18 **A.** Yes.

19 **Q.** Okay.

20 **A.** Yes.

21 **Q.** Did he do anything to tell you in any way that he  
22 disagreed with that?

23 **A.** Absolutely not.

24 **Q.** Now, we go down to the last paragraph here, or the next  
25 to last paragraph that says, "The agreement must be written

1 so as to protect both the author's rights and the rights of  
2 the person and family of the person in the story." Do you  
3 see that?

4 **A.** Yes, I do.

5 **Q.** And, basically, you want everybody to be taken care of;  
6 everyone's rights protected in some way?

7 **A.** Absolutely.

8 **Q.** And is that something that you talked about, as well?

9 **A.** Yes.

10 **Q.** And Mr. Rigg agreed with that?

11 **A.** I assume he did.

12 **Q.** Okay. You don't have any reason to believe that he  
13 didn't?

14 **A.** That would be correct, yes.

15 MR. MAHANEY: Your Honor, I would move the  
16 admission of Exhibit 3 at this time, Plaintiff's 3.

17 THE COURT: Any objection?

18 MR. HANCOCK: No objection.

19 THE COURT: All right. Exhibit 3, Plaintiff's  
20 Exhibit 3, may be admitted.

21 **PLAINTIFF EXHIBIT 3 ADMITTED**

22 BY MR. MAHANEY:

23 **Q.** Now, as time passed, you went ahead and continued after  
24 -- after February of 2017, you continued to provide Mr. Rigg  
25 additional information as he requested?

1       **A.**     Yes.

2       **Q.**     And there would be times that he would call up on the  
3       phone or send you additional drafts and you continued to  
4       perform and do that, right?

5       **A.**     That's correct.

6       **Q.**     Okay. Now, I take it that -- did you have an  
7       understanding that in terms of the contract or the agreement  
8       that you referenced that your grandsons were working with  
9       Mr. Rigg to develop that? Did you have an understanding  
10      that that was taking place?

11      **A.**     Yes, I did.

12      **Q.**     Okay. And you weren't directly involved in that, but  
13      they were keeping you aware of what was going on?

14      **A.**     Yes. Right.

15      **Q.**     Okay. Ultimately, did they -- did they present you  
16      with a copy of an agreement that Mr. Rigg had signed for you  
17      to review?

18      **A.**     Yes.

19      **Q.**     Let me show you what we've previously admitted as  
20      Plaintiff's Exhibit number 6. And I'll let you take a look  
21      at that, sir. Do you recognize Exhibit number 6?

22      **A.**     I do.

23      **Q.**     Okay. Now, there's a signature on there under Hershel  
24      Woodrow Williams.

25      **A.**     Yes.

1 Q. Dated 1/20/18?

2 A. Correct.

3 Q. Is that your signature?

4 A. That is my signature.

5 Q. Did you -- and did you sign that on that date, Exhibit  
6 number 6?

7 A. I did.

8 Q. Okay. Do you know what became of this document,  
9 Exhibit 6, after you signed it?

10 A. I'm not positive. I think, and my grandson, son or my  
11 daughter, I think she has the copy.

12 Q. The original?

13 A. Yeah. I think.

14 Q. Okay.

15 A. But I don't know that for sure.

16 Q. Let me ask you to take a look here at Paragraph number  
17 6.

18 A. Okay.

19 Q. It says that, "The book will be a collaborative effort  
20 by all parties noted above. Mr. Williams and author Mr.  
21 Rigg shall mutually decide on the book content, title and  
22 when the book is complete and ready to be published. The  
23 design, format and style of the book, including text,  
24 photos, graphic material and dust jacket art will be  
25 mutually developed." Do you see that?

1       **A.**    Yes, sir.

2       **Q.**    And was that consistent with your understanding and  
3       your agreement with Mr. Rigg throughout the time that you  
4       had the relationship with him in working on the book?

5       **A.**    Absolutely.

6       **Q.**    Okay. And in terms of providing him information, did  
7       you rely upon -- on that agreement in performing your end of  
8       the bargain in providing him information?

9       **A.**    Absolutely.

10      **Q.**    To your knowledge, did you ever agree to anything any  
11      different, any agreement that would have allowed the book to  
12      be published without your consent?

13      **A.**    No. I would not have done that.

14      **Q.**    In 2019 and 2020, I know that there was a time that you  
15      were getting drafts of the book to review and to consent to.  
16      In 2019 or 2020, did Mr. Rigg submit any drafts of the  
17      *Flamethrower* book or a book about your life to you for your  
18      review and consent?

19      **A.**    I have a transcript, or pages, something like 600-some  
20      pages, but I'm not quite sure whether I got them in '17. I  
21      sure didn't get them in '20.

22      **Q.**    Okay.

23      **A.**    But I may have received those sometime in '18.

24      **Q.**    Okay. You have taken a -- well, I know you haven't  
25      read the whole thing, but you have taken a look at what the



1 please let me know so I can repeat my question for you?

2 **A.** Sure enough. Yes.

3 **Q.** Okay. I want to start by asking you a couple of things  
4 about the July, 2017 meeting that you told Mr. Mahaney  
5 about. Do you remember telling Mr. Mahaney about the July,  
6 2017 meeting?

7 **A.** No. I never told him about that until this document.

8 **Q.** Well, I mean today. You told us a few minutes ago  
9 about the July, 2017 meeting.

10 **A.** Yes. We talked about the meeting, yes.

11 **Q.** Yeah. You told us that Bryan was there, Bryan Casey,  
12 Brent Casey, and your two daughters, I think Tracie and  
13 Travie; is that right?

14 **A.** Yes. Now, pardon me. It was in February, not July.

15 **Q.** Okay. Okay. That eliminates a little bit of confusion  
16 that I had. Thank you for clearing that up.

17 I want to go back to Guam. Was your grandson Brent  
18 correct that the first place you met Mr. Rigg was on Guam?

19 **A.** I think so. I think that was the first time we met and  
20 he had his boys with him. I don't think I had met him  
21 before. If so, it was probably at a function, and I can't  
22 remember everybody you meet at a function.

23 **Q.** Okay. You mentioned earlier two terms that were  
24 discussed about the book at Guam; one, that it would be  
25 factual; and, two, that you would get a chance to sign off

1 and give your approval. Do I have that correct?

2 **A.** You do, yes.

3 **Q.** Okay. Was there any discussion when you all were in  
4 Guam what would happen if those two terms came into conflict  
5 with one another?

6 **A.** Not to my knowledge.

7 **Q.** Okay. Was there any discussion at the February, 2017  
8 meeting that you can recall about what would happen if those  
9 two terms came into conflict with each other?

10 **A.** Not to my knowledge on that either. I don't recall  
11 that. I -- I thought everything was mutual.

12 **Q.** Okay. I want to ask you about what's been marked as  
13 Plaintiff's exhibit 3. This is the one that I think you  
14 typed up and it's dated February 16, 2017.

15 **A.** Correct.

16 **Q.** Did you ever send this to Mr. Rigg?

17 **A.** I did not. This was notes that I was making for my own  
18 -- my own use so that I wouldn't forget what took place at  
19 that meeting.

20 **Q.** Okay. Okay. So, if Mr. Rigg says he didn't see this  
21 document until the lawsuit, you wouldn't have any reason to  
22 dispute that?

23 **A.** No. That's correct.

24 **Q.** Okay. I want to ask you about what's been marked as  
25 Plaintiff's Exhibit number 6, if you can pull that out, or

1 was present and I think she has the original, but I'm -- I'm  
2 not positive of that.

3 **Q.** Which daughter are you speaking about?

4 **A.** Tracie.

5 **Q.** That's with a "c", as in "cat"?

6 **A.** Yeah, correct.

7 **Q.** Okay. What about the other document, the one that you  
8 -- you typed up after the February, 2017 meeting? Where is  
9 the original of that?

10 **A.** I kept that in my files and I didn't show that to  
11 anybody until this hearing came up.

12 **Q.** And where is the original of that document?

13 **A.** I have it.

14 **Q.** Okay.

15 **A.** My attorney or nobody else knew that existed until this  
16 hearing came up.

17 **Q.** Did you give an interview where you detailed some of  
18 your story to the World War II museum in New Orleans or in  
19 the transcript housed there?

20 **A.** I'm not sure I understand that question.

21 **Q.** Well, that might not have been a very good question, so  
22 let me give it another try, okay? Is there a transcript of  
23 an interview with you that's housed in the World War II  
24 museum in New Orleans?

25 **A.** Oh, I'm sure there are. I've been there -- I've been